

REMARKS

Claims 1-2 and 4-9 were previously pending in the application. The current Office Action does not acknowledge that Claim 3 was canceled in Applicant's Response to the then Final Office Action which was filed on December 23, 2003. Claims 1, 8, and 9 have been further amended to advance the prosecution of this case and reserve the previous subject matter for pursuit in a continuation or related application.

The current Office Action rejected pending Claims 1-2 and 4-9 under various grounds. The current Office Action initially rejected Claims 1-2, 4-7, and 9 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1 and 9 have been amended to more distinctly claim statutory subject matter. Applicants respectfully submit that Claims 1-2 and 4-9 are in condition for allowance.

The current Office Action has further rejected Claims 1-2, 4 and 7-9 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,226,365 B1 ("Mashinsky"). With regard to Claims 1-2, 4, and 7, the current Office Action does not recite any specific basis for such rejection and instead merely repeats a vague reference to the teachings of Mashinsky on page 3 that ignores limitations of such claims. In the current Office Action's only reference to prior arguments of Applicants on page 6, the Office Action appears to be quoting Applicants' arguments from an earlier response and does not address Applicants' most recent response and amendments entered thereby. For example, as noted by Applicants in their response dated December 23, 2003, Claim 1 was amended to recite "preventing a requester from accepting the response after the session is terminated." Such a limitation has not been addressed by the Examiner and is not disclosed by Mashinsky. Instead, the current Office Action focuses attention on the fact that an earlier argument of the Applicants uses the term buyer instead of

requestor without demonstrating that such a distinction at all impacts the teachings of the cited references. In any event, the current Office Action is merely recycling old rejections that are cut-and-pasted from a previous Office Action without considering the current state of the claims or Applicants' prior response to such rejections and has not presented a prima facie case of Claim 1 being anticipated by Mashinsky or any other reference. Thus, Applicants respectfully submit that Claim 1 is in condition for allowance. As Claims 2 and 4-7 depend from Claim 1, Applicants respectfully submit that Claims 2 and 4-7 are allowable as well.

Claim 8 was also previously amended by the Applicants and is additionally amended in the current response. The current Office Action has not addressed previously amended Claim 8, but has instead repeated verbatim the arguments from the September 23, 2003 Office Action with respect to Claim 8, including statements that Applicants' prior arguments are irrelevant as Claim 8 does not expressly recite a "buyer." While Applicants asserts that such distinction does not matter within the context of Mashinsky, now amended Claim 8 now recites receiving a purchase request on behalf of a buyer. For at least this reason, Applicant respectfully submits that Claim 8 is allowable over Mashinsky.

Claim 9 was also amended by the Applicants and now recites both "permitting a requestor to accept the at least one response during the session" and "preventing the service provider from modifying the set of responses during the session," neither of which limitations are addressed by the current Office Action or anticipated by Mashinsky. Thus, Applicants respectfully submit that Claim 9 is also allowable over Mashinsky.

The current Office Action has additionally rejected Claims 5-6 under 35 U.S.C. 103(a) over Mashinsky in view of U.S. Patent No. 6,598,026 ("Ojha"). The Examiner initially rejected Claims 5-6 under 35 U.S.C. 102(e) over Mashinsky. However, Applicants successfully traversed

such initial rejection by pointing out that Mashinsky actually teaches away from the recited elements of Claims 5 and 6 at Column 23, lines 1-6. The current Office Action in response to such traversal admits that Mashinsky does not disclose the recited elements of Claims 5 and 6 on page 4 but then asserts that Mashinsky should still be used in combination with Ojha to suggest the limitations of Claims 5 and 6. However, as the Examiner apparently agrees that Mashinsky teaches away from certain limitations of Claims 5 and 6, it would be improper to combine it with another reference the current Office Action asserts teaches the missing limitations from Mashinsky. Indeed, the current Office Action's only basis for suggesting the combination of the two references is that they both concern electronic commerce. The current Office Action does not even address the fact that one of the references teaches away from the very aspects of the other the current Office Action is seeking to combine. Clearly, one reference that teaches away from another reference cannot be said to suggest the other reference.

However, even if such combination were proper, the current Office Action has not demonstrated that Ojha teaches or suggests the limitations taught away from by Mashinsky. More particularly, Ojha does not disclose, teach or suggest the recited denial of access to a service provider during a purchasing session included in Claims 5 and 6. The current Office Action asserts that the fact that Ojha teaches rules-based decision making with the rules established by a seller suggests such denial of access. However, rules can still be changed in Ojha by a seller and there is no teaching in Ojha of limiting such changes or the time of such changes. The current Office Action seems to be suggesting that rules are locked in after being set for the first time. There is no such teaching in Ojha, which effectively teaches the opposite. Moreover, nothing in Ojha suggests limiting or denying changes on any level. Instead, Ojha actually teaches away from denial of access to a seller. In particular, in the same Figure

mentioned generally by the current Office Action without citing specific references, Ojha teaches email response mechanisms to notify sellers of buyers “as soon as they are available at the transaction site.” See Column 15, lines 46-50. Ojha teaches that such notification removes the need for constant monitoring and immediately thereafter that a seller can update rules using HTML interfaces. See Column 15, lines 50-64. Indeed, Ojha even suggests that once a seller is notified of a particular buyer, the seller can use these same interfaces to specify new rules to give a specific response to the specific buyer. See Column 15, line 64 through Column 16, line 4. Thus, Ojha teaches away from the limitations of Claims 5 and 6 in an even stronger manner than the initial reference of Mashinsky. For at least these reasons, Claims 5 and 6 are allowable over the recited prior art and Applicants respectfully suggest allowance thereof.

Thus, all grounds of rejection and/or objection are traversed or accommodated, and favorable reconsideration and allowance are respectfully requested. Should the Examiner have any further questions or comments facilitating allowance, the Examiner is invited to contact Applicant's representative indicated below to further prosecution of this application to allowance and issuance.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'D. Collins', with a long horizontal stroke extending to the right.

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